

## LAND ACQUISITION AND DEVELOPMENT AGREEMENT

1/6/17 ~~710~~ AGREEMENT (hereinafter called this "Agreement" or "LADA") dated as of the 6 day of January, 2017 (the "Execution Date"), by and between the VILLAGE OF BREWSTER, a municipal corporation organized and validly existing under the laws of the State of New York, having its principal office at 50 Main Street, Brewster, New York 10509 (the "Village"), and COVINGTON DEVELOPMENT LLC, a New York limited liability company having an office and principal place of business at 322 Clock Tower Commons, Brewster, New York 10509 (Covington ).

**WHEREAS**, in furtherance of the objectives of Articles 15 and 15-A of the General Municipal Law of the State of New York, as amended (the "GML"), the Village has undertaken a program for the acquisition, clearance, building demolition, replanning, reconstruction and neighborhood rehabilitation of certain areas in the Village and has been engaged in an urban renewal program of certain areas in the Village downtown area, resulting in the preparation and adoption of an update to the Village's Comprehensive Development Plan (as updated, the "Comprehensive Plan") by resolution of the Village Board of Trustees dated June 17, 2015; and

**WHEREAS**, the Comprehensive Plan update followed, and is consistent with, certain other plans and studies obtained by, or submitted to, the Village, including (i) a Niche Marketing Plan dated March 2009 prepared by E.M. Pemrick & Company; (ii) a plan entitled Envision Brewster prepared by Hudson Valley Pattern for Progress Fellows; (iii) a "Blight Study" prepared by VHB Engineering, Surveying and Landscape Architecture, P.C. ("VHB") dated September, 2014, revised to February 2015; and (iv) a "Preliminary Market Feasibility Analysis of the Brewster NY Market for Transit Oriented Development" prepared by Goman & York dated June, 2014 (collectively, the Studies), which, collectively, assessed existing conditions in the study areas and identified areas which would be appropriate for urban renewal, recommended methods for the revitalization of blighted areas to promote economic growth of the Village, the maintenance of the historic character of the Village, the removal of existing blighted, substandard and insanitary conditions and, generally, to benefit the public health, safety and welfare; and

**WHEREAS**, pursuant to GML Section 505(2), the Board of Trustees referred to the Village Planning Board a certain "Urban Renewal Plan for the Brewster Urban Renewal Area" prepared by VHB dated August 2015, which was approved by the Village Planning Board, with recommendations for modifications, by resolution adopted on February 17, 2016; and

**WHEREAS**, by resolution adopted on May 18, 2016, in furtherance of the goals of the Comprehensive Plan, the Village Board of Trustees, pursuant to and in accordance with the applicable provisions of the GML, adopted a certain "Urban Renewal Plan for the Brewster Urban Renewal Area" (the "URP"), which incorporated the modifications recommended by the Planning Board, establishing an Urban Renewal Area (alternatively, the "URA" or the "Project Area") which is shown in the URP and includes various sub-areas as described therein; and

**WHEREAS**, on June 17, 2015, the Village accepted a "Final Generic Environmental Impact Statement for the 2015 Update to the Comprehensive Plan, Related Zoning Amendments and Urban Renewal Actions" which set forth responses to questions raised in the "Draft Generic Environmental Impact Statement for the 2015 Update to the Brewster Comprehensive Plan,

Impact Statement for the 2015 Update to the Comprehensive Plan, Related Zoning Amendments and Urban Renewal Actions” which set forth responses to questions raised in the “Draft Generic Environmental Impact Statement for the 2015 Update to the Brewster Comprehensive Plan, Related Zoning Amendments and Urban Renewal Actions”, all in accordance with Article 8 of the Environmental Conservation Law of the State of New York, and the implementing regulations set forth in 6 NYCRR Part 617 (“SEQRA”); and

**WHEREAS**, the Village entered into a certain Memorandum of Understanding (the “MOU with Covington dated July 22, 2013 whereby Covington was authorized, upon completion of the CPU or, at its option, concurrently with the CPU process, to develop a conceptual planning and program analysis (a “Designed Development Plan”), subject to the acceptance and approval of the Village, for the redevelopment of those areas of the Village within the Project Area; and

**WHEREAS**, the MOU, *inter alia*, provided that the Village and Covington will enter into a public-private partnership pursuant to a land acquisition and development agreement (“LADA”) setting forth the rights and obligations of the Parties for the implementation of a Designed Development Plan; and

**WHEREAS**, a designed development plan (the “DDP”) entitled “Envision Brewster” dated September 26, 2016 and prepared for Covington by Tecton Architects has been submitted to the Village, which depicts conceptual plans for the sub-areas of the URA, together with detailed plans for Phase I of the Project to be located in the sub-area designated as “Main South” in the DDP; and

**WHEREAS**, the various phases of the DDP, to be implemented, will require, *inter alia*, (i) the obtaining of site plan and all other approvals, and all required permits, from all governmental agencies having jurisdiction of the Project Area; (ii) all required infrastructure, including, but not limited to, sewer, water, utility supply, parking and traffic improvements; (iii) stormwater management facilities; (iv) compliance with the New York State Environmental Quality Review Act (“SEQRA”), 6 NYCRR Part 617 *et seq.*, and any and all other governmental laws, rules and regulations applicable to the Project; and (v) the acquisition and disposition of lands, including buildings and improvements situated thereon, within the Project Area as necessary or desirable for the implementation of the DDP, including private acquisition of parcels located in the Project Area and acquisitions and dispositions via the Village’s exercise of condemnation and eminent domain; and

**WHEREAS**, the properties designated by the Village as being within the URA are shown on the map entitled “Urban Renewal Area and Redevelopment Sub-Area” which is attached hereto as Exhibit A which forms a part hereof, and other areas that the Village deems appropriate within the boundaries of the Comprehensive Plan Area (said other areas being included within the term “Project Area” as used herein) include (i) certain properties owned by the Village (each, a “Village Property”, and, collectively, the “Village Properties”) which are listed on Exhibit B which is attached hereto and forms a part hereof, which are currently contemplated to remain in Village ownership; (ii) certain properties in private and/or non-governmental ownership (the “Privately Owned Parcels”) as shown on Exhibit “C” which is attached hereto and forms a part hereof; and (iii) other properties owned by other governmental entities, authorities or agencies, including any used for transit related purposes (the “Transit Properties”) which are listed on Exhibit “D” which is attached hereto and forms a part hereof,

with the Privately Owned Parcels and Transit Properties being hereinafter collectively referred to as "Other Development Parcels" or "ODPs"; and

**WHEREAS**, the Village desires to facilitate redevelopment, enhance neighborhood attractiveness, and advance economic development for the Project Area with the participation of as many ODPs as possible through a mixture of residential, commercial, retail, hospitality, parking, recreational and other appropriate uses on, in and adjacent to the Project Area; and

**WHEREAS**, in furtherance of the objectives of the Project, and subject to the terms and conditions of this LADA, Covington will endeavor to acquire the Privately Owned Parcels through private negotiation and purchase, but, if unable to do so, may request the Village to acquire one or more, or all Privately Owned Parcels, by condemnation, whereupon the Village will acquire the Privately Owned Parcels either through private negotiation pursuant to the procedures more particularly described below, or through the exercise of the power of eminent domain and condemnation under the New York Eminent Domain Procedure Law (the "EDPL") and thereafter dispose of same to Covington by sale or lease; and

**WHEREAS**, the Village has, by resolution dated January 4, 2017, adopted the "Village of Brewster Redeveloper Requirements and Designation Procedures Policy" (the "Redeveloper Policy") to be followed in order to designate Covington as the "qualified and eligible sponsor" pursuant to GML §507 for the Project as it relates to the URA and the entire Project Area (the "QES Resolution"); and

**WHEREAS**, Covington has submitted to the Village a Redeveloper's Statement of Qualifications and Responsibility or other proof of financial capacity to undertake and complete the Project which (i) the Village has determined meets the standards of the Village Redeveloper Policy as adopted by the QES Resolution; and (ii) shall be kept confidential by the Village and/or its representatives; and

**WHEREAS**, the designation of Covington as the "qualified and eligible sponsor" for the Project was approved by the Village by resolution dated January 14, 2017 (the "Designating Resolution"); and

**WHEREAS**, the Parties contemplate that Covington may, at its option, consider forming strategic alliances with owners of ODPs in the Project Area as it deems appropriate consistent with the Final Development Plans and the Project Goals (both terms hereinafter defined in Section 1.01 of this Agreement); and

**WHEREAS**, Covington and the Village, with their respective consultants and with the input of the Comprehensive Master Plan Committee and input of the public elicited at several public informational meetings, have collaboratively formulated, and the Village has adopted, by resolutions of the Village Board of Trustees adopted on November 18, 2015, zoning code amendments, sign code amendments, and Planning amendments to the Brewster Village Code (the "Code Amendments") applying to properties in the Village both within and outside the URA that would give effect to the Comprehensive Plan, and be consistent with the FGEIS and Findings, and accommodate the Project; and

**WHEREAS**, the Parties wish to enter into this Agreement to set forth certain respective understandings and intentions of Covington and the Village, as the basis for Covington to

undertake the Project, as well as to address the acquisition and/or redevelopment of Village Properties and the ODPs in the Project Area; and

**WHEREAS**, the Village and Covington wish that the development of the Project Area take place in a timely and expeditious manner; and

**WHEREAS**, in furtherance of the above, the Board of Trustees of the Village, by resolution dated January 14, 2017, has approved this Agreement for execution by the Mayor on behalf of the Village,

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and other good and valuable consideration, the Parties agree, as follows:

**Article 1**  
**UNIFIED DEVELOPMENT WITHIN THE URA**

**1.01 Development Within the URA.** The Village, community stakeholders and Covington have worked together to facilitate the ultimate redevelopment of the Project Area. The Project will be given effect in phases through the implementation of the DDP and Final Development Plans for each phase thereof. It is the intent that the DDP will be consistent with the goals and objectives, and will facilitate the implementation of, the Comprehensive Plan and the URP such that the URA will be redeveloped and properties therein used consistent with the following socially, economically and environmentally responsible "smart growth" principles and goals (collectively, the "Project Goals"), which Project Goals may be modified, from time to time, upon mutual agreement of the Village and Covington and which modifications may be subject to additional approvals from the Village Board:

- to create economic value within the Project Area, focusing on the existing downtown center and redeveloping underutilized sites;
- to create jobs and career opportunities for Village residents;
- to provide net positive tax revenue to the Village and the School district;
- to provide a vibrant Village center and create a diversity of uses (live, work, shop, learn, and play);
- to restore and subsequently maintain the Village of Brewster as an attractive regional destination;
- to foster a sense of safety and security;
- to capitalize on the existing transportation infrastructure and create new multi-modal transportation networks;
- to provide a mixed-use downtown setting to include residential, commercial, retail, hospitality, parks, open space, cultural, civic and other

uses;

- to create and enhance Village gateways;
- to improve streetscapes and create a pedestrian friendly "walkable" environment;
- to achieve the adaptive reuse of vacant buildings where appropriate; and
- to create a sustainable development by implementing smart growth and green building design elements in an economically viable plan

**1.02 Implementation and Requirements of the DDP.** The Village has determined that the Code Amendments are consistent with the Comprehensive Plan and provide for appropriate land uses for the Project Area, consistent with the Village's overall expressed goals and visions for the redevelopment and sustainability of the Project Area. The key concepts for implementing the DDP in as efficient a manner as reasonably possible are:

(i) to encourage Covington to take advantage of incentives created for the URA in a timely manner;

(ii) to provide for appropriate flexibility in order to adjust to market shifts and preferences including encouraging development and construction of different uses within the Project Area simultaneously or in phases.

(iii) Covington shall, among other things, build and maintain a high quality Project which shall be reasonably acceptable to the Village in accordance with the Comprehensive Plan, and which construction and maintenance shall be in accordance with the standards and designs, timeframes and other goals set forth in this Agreement. Such construction, design and maintenance standards (internal and external) will be generally of a quality comparable with market rate properties in the New York metropolitan area.

(iv) Covington shall make commercially reasonable efforts to design all buildings in its control consistent with Neighborhood Development Certification standards set under the 2009 Leadership in Energy and Environmental Design Green Building Rating System Standards (the "LEED Standard").

**1.03 Economic and Market Study Updates.** In order to assist the Village and Covington in implementing the Project in substantial harmony with the Project Goals and changing market conditions, Covington, at its sole cost and expense, shall have the right to, as a condition precedent to the performance by it of its other and further obligations to purchase any ODPs, and as more fully set forth in Article 5, perform or update such economic and market studies (the "Feasibility Studies") as it reasonably determines are necessary to ensure the Project's sustainability, and to update its phasing schedule accordingly.

#### **1.04 Infrastructure.**

(a) Covington has worked and shall continue to work together with the Village to determine, and provide a plan (including cost estimates) for the construction of the required infrastructure necessary for the implementation of the Project. The Parties will cooperate and work diligently in an effort to seek, apply for and obtain grant monies for such infrastructure construction costs. The Village will cooperate with and facilitate Covington efforts to plan, schedule and/or construct on-site and/or off-site infrastructure, including efforts with other state and/or federal agencies; provided that nothing contained in this Agreement shall obligate any on-site and/or off-site infrastructure costs to be paid for by the Village unless such costs will be paid from funds received from grants or other governmental assistance applied for and received by the Village. The provisions of this Section shall survive the closing of title of all or any portion of the Project.

(b) The Village will identify and, to the maximum extent feasible, secure the myriad and extensive non-Village funding resources that will ultimately be necessary to construct and implement the infrastructure required to support the Project in the form of federal, state and other grants and/or subsidies (the "Public Funding"), without direct cost to the Village or Covington. The Village shall use continuous best efforts to pursue all available Public Funding that is or may become available in order to ensure the feasibility of the Project while maximizing the benefits of the Project to the Village. As of the Execution Date, the Village has supported Putnam County's application for a USDOT TIGER Grant for Regional Roadway Improvements, Multi-Modal Parking and Congestion Management Project in Brewster, and has submitted a Consolidated Funding Application to the New York State Department of Homes and Community Renewal for grants under the New York Main Street (NYMS), Community Development Block Grant (CDBG), Public Facilities, Public Infrastructure, and Community Planning programs. Covington agrees to assist the Village in the application processes for these funding sources. To that end, and as many of these potential funding resources look more favorably upon "shovel-ready" projects, the Village and Covington shall use its best efforts towards obtaining the Approvals (as hereinafter defined) necessary for commencement of construction in a timely manner, in order to be eligible for these potential funding opportunities.

(c) Covington will make its consultants reasonably available, and will cooperate in the exploratory phases of these infrastructure efforts to the extent feasible, as necessary, so that the Village may execute such applications as it deems necessary and beneficial for Public Funding and as may be approved by it.

#### **1.05 Project Costs.**

(a) Covington will identify and, to the maximum extent feasible, secure the myriad and extensive funding resources that will ultimately be necessary to construct each phase of the Project, including but not limited to conventional debt and equity financing, in addition to the Public Funding programs referred to above that are or may become available in order to ensure the feasibility of the Project while maximizing the benefits of the Project to the Village. Covington shall use continuous best efforts to pursue all available Public Funding in connection with the Project. The Village agrees to assist Covington in the application process for these funding sources. To that end, and as many of these potential funding resources look more favorably upon shovel-ready projects, the Village and Covington shall use its best efforts towards obtaining the Approvals (as hereinafter defined) necessary for commencement of

construction in a timely manner, in order to be eligible for these potential funding opportunities.

(b) The Village will cooperate in the exploratory phases of these Project efforts to the extent feasible as necessary, so that Covington and/or the Village may execute such applications as Covington deems necessary for conventional debt and equity financing, and as the Parties deem necessary for Public Funding and as may be approved by it.

**1.06 Village Parking.** The Parties recognize that certain Village Properties are currently utilized by the Village for the provision of parking to third party tenants and/or licensees ("Village Parking"). This Village Parking provides parking capacity to the downtown that is currently needed by said third parties and the Village currently derives revenue from said Village Parking. Covington recognizes that as part of the Project, there is a need to coordinate construction activities so as to minimize disturbance to Village Parking in as reasonable a manner as possible.

**1.07 Outside Date for Commencement of Construction Phases.** Commencement of construction of the first phase of the Project, or a portion thereof, and all later phases or portions thereof, shall occur, with regard to each phase, within one (1) year following the latest of (i) the obtaining by Covington of Public Funding and all other necessary private funding for the then current phase of the Project, including all necessary infrastructure therefor; (ii) the issuance of all Approvals for the then current phase of the Project (as said term is defined in Section 5.01 of this Agreement; and (iii) the acquisition, by Covington or the Village of all properties, air rights or other interests in all properties included in, and necessary for construction and completion of, the then current phase of the Project, including all necessary infrastructure therefor. The parties will endeavor, to the extent reasonably possible, to coordinate all such acquisitions in a particular phase so that acquisitions, whether by Covington or the Village, shall not occur until all Public Funding and other necessary funding, and all Approvals, are either obtained or, in the case of acquisitions by the Village, the Village would not proceed with such acquisition until the Village is satisfied that Covington has all necessary funding in place to fund Covington's subsequent acquisition from the Village of properties acquired by the Village hereunder. It is the parties' intention that all acquisitions in a particular phase, or in a separate phase as needed for required infrastructure, shall occur as concurrently as reasonably possible (the "Construction Commencement Date"); however, if (a) there is a pending appeal related to one or more applied-for Approvals, or (b) there is a *force majeure* event that prevents or delays such commencement, the Construction Commencement Date shall be tolled until resolution of the appeal or *force majeure* event. Notwithstanding the above, in consideration of fluctuations in the credit markets and the retail and residential economic markets, Covington may commence construction of the first phase within three (3) years from the Execution Date of this Agreement so long as Covington can show it has been attempting in good faith to obtain funding necessary to undertake the Project or a phase of the Project and provided further that this period shall be tolled in the event that (x) there is a pending appeal related to one or more applied-for Approvals (as said term is defined in Section 5.01 of this Agreement), or (y) there is a *force majeure* event that prevents or delays such commencement.

The term "acquire" or "acquisition" as used herein with regard to Privately Owned Parcels or ODPs shall mean and refer to obtaining ownership or control of a parcel and/or any appurtenance thereto, by purchase, gift, devise, lease, condemnation or otherwise, so as to permit the use of a parcel or any appurtenance thereto for its intended purposes in connection with the Project.

**Article 2**  
**INTENTIONALLY LEFT BLANK**

**Article 3**  
**OTHER PROPERTIES**

**3.01 Other Development Properties.** The Parties agree that a Project that incorporates Privately Owned Parcels, through private negotiation and purchase, together with Village and Transit Properties in the Project Area, will be beneficial to the holistic comprehensive redevelopment of the Village's downtown area in a timely manner. Covington agrees to strive to, where feasible, and without creating any affirmative obligation to do so, include the ODPs in the Project by forming strategic alliances with the owners of ODPs or by private acquisition as referred to in sub-paragraph 3.02, below.. Covington shall use commercially reasonable efforts to include the ODPs in the Project. As such, the Village agrees to cooperate and assist Covington in these efforts.

In the event that Covington is unsuccessful in aligning the owners of the ODPs for inclusion of some or all of the ODPs in the Project, Covington shall notify the Village regarding Covington's efforts with the ODPs. To the extent that the Village is unable to align or facilitate acquisitions of ODPs owned by other governmental agencies or municipal corporations, the Village agrees to use its best efforts to facilitate and effectuate Covington's acquisition and/or inclusion of said properties so that same can be included in the Project.

**3.02 Privately Owned Parcels.** Covington will endeavor to acquire the Privately Owned Parcels in each phase of the Project, or in other phases in order to facilitate infrastructure improvements as needed for the Project, and to obtain the necessary private funding therefor through private negotiation with reasonable efforts commencing after the obtaining of all Approvals for the then current phase and expiration of the appeal periods applicable to such Approvals.

(a) In the event that Covington is unable to acquire any Privately Owned Parcel through private negotiation with the owner thereof, Covington may, provided that all Approvals and all Public Funding and private financing, or commitments therefor, for the then current phase has been obtained, deliver to the Village a "Parcel Closing Notice" which includes designation of the Parcel(s) to be acquired and, if it has not already done so, the Village shall (i) determine that all Public Funding and private financing, or commitments therefor, for the then current phase has been obtained by Covington; and (ii) promptly thereafter commence and shall thereafter diligently pursue all actions and procedures under the EDPL necessary for the acquisition by negotiation or condemnation by the Village of the Privately Owned Parcels designated in such notice provided, however, that the Village shall not be obligated to make any "offers" of any kind or nature under EDPL to any owners of the Privately Owned Parcels except in accordance with subsections (b) through (d), below.

(b) Commencing upon receipt of the Parcel Closing Notice, but no later than fifteen (15) business days thereafter, the Village shall make formal offers to the owners of the Privately Owned Parcels designated in the Parcel Closing Notice pursuant to the EDPL and shall thereafter



actively prosecute all other actions thereunder to acquire those Privately Owned Parcels .

(c) Anything in this Agreement to the contrary notwithstanding, in no event shall the Village be liable to Covington for any delay or failure to acquire all or any one of the Privately Owned Parcels so long as the Village is proceeding diligently and in good faith and such delay or failure is not a result of events within the reasonable control of the Village.

(d) The Village shall not make any acquisition offers to any of the owners of the Privately Owned Parcels without the prior written consent of Covington. In addition, the Village shall not settle any proceedings under the EDPL without Covington's prior written consent, which shall not be unreasonably withheld, provided, however, that the Village shall have the right, without Covington's consent, to offer to the owner of a Privately Owned Parcel a sum for acquisition of the fee interest of the affected land up to the amount of the Village's "approved" appraised value of the Privately Owned Parcel established under the EDPL by the Village's Appraiser. The Village shall cooperate and communicate with Covington at all times with regard to any condemnation awards and offers and/or communications made by or between the Village and potential condemnees, and provide Covington with copies of all appraisals received by the Village.

(e) Covington hereby covenants and agrees to pay the Village all Acquisition Costs and Relocation Costs (as defined hereinafter) incurred by the Village (the "Developer Funding"). The Developer Funding shall be advanced by Covington at the Closing of each Privately Owned Parcel, it being the intention of Covington and the Village to coordinate closings so that they occur after final development plans have been fully approved for the particular phase of the Project within which a particular Parcel is situated. Anything in this Agreement to the contrary notwithstanding, the Village shall have no obligation to acquire any Privately Owned Parcel unless and until Covington pays the Developer Funding for such parcel. On or before the date which is ten (10) days prior to the date on which the Village shall incur any amount of Acquisition Cost or Relocation Cost, and in all events at least ten (10) days prior to a Parcel Closing Date, the Village shall invoice Covington for such costs, which invoice shall provide Covington with appropriate documentation in sufficient detail to enable Covington to verify that the proposed Acquisition Activities and Relocation Activities to be incurred before a Parcel Closing, comply with the terms and provisions of this Agreement, subject to update as of the date of the Parcel Closing Date. Covington shall pay the Village for all of the Acquisition Costs and Relocation Costs at the Parcel Closing or if required to be paid earlier, within ten (10) business days after the receipt of the invoice therefor, provided, however, that with respect to any Acquisition Costs and Relocation Costs incurred or to be incurred by the Village after a Unit Closing, the time period within which Covington must pay any such invoice shall be extended to forty-five (45) days after receipt for any invoice for any Acquisition Costs or Relocation Costs in excess of Fifty Thousand (\$50,000.00) Dollars. The provisions of this Section 3.02 (e) shall survive the Parcel Closings and the termination of this Agreement.

### 3.03 Conditions to Acquisition by the Village of the Privately Owned Parcels

The Village shall be required to take title to the Parcels whether such title is vested in the Village under the EDPL or is otherwise acquired by the Village, only in response to a Parcel Closing Notice delivered by Covington, and only at a Parcel Closing. In no event shall the Village be required to accept or take title to any Privately Owned Parcels whether by condemnation under EDPL or otherwise, or to incur Acquisition Costs or any obligation or expense to the owners of a Privately Owned Parcel, except in response to a Parcel Closing

Notice, and then only upon the satisfaction of all conditions precedent set forth in Articles 5 and 6 of this Agreement.

3.04 Developer Owned Parcels. The Village hereby agrees that during the term of this Agreement, Covington shall have the right, subject to the terms and conditions of this Section 1.4, to acquire fee title to any one or more of the Privately Owned Parcels without any assistance of the Village (the "Developer Owned Parcels"). Covington shall keep the Village apprised on a timely and ongoing basis of Covington's activities in connection with its private acquisition of any of the Privately Owned Parcels.

3.05 Relocation

(a) From and after a Privately Owned Parcel Closing, the Village as permitted by law, shall assist Covington with the performance of all Relocation Activities required in order to obtain vacant possession of all the Privately Owned Parcels, including relocation activities required as a result of environmental review requirements and other applicable law.

(b) For all purposes of this Agreement, the term "Relocation Costs" shall include without limitation the costs of: (i) financial assistance given to legal residential and commercial owners and tenants; (ii) surveying of household composition, relocation interviewing and counseling, housing inspections and referrals for replacement housing and business locations, all subject to a budget to be established by the Village and reasonably approved by Covington, as the same may be amended from time to time, and all other costs associated with the administration and implementation of the relocation policy of the Village with respect to the Project. Notwithstanding the foregoing, the Village shall not expend in excess of the statutory limit imposed by the GML without the prior consent of Covington.

(c) At each Parcel Closing, the Village shall convey the Parcel to Covington as set forth above, together with all appurtenances.

3.06 Easements to Others. The Village shall cooperate with Covington with respect to the granting of easements, rights of way, or other rights or interests to others for the benefit of the Project as are reasonably necessary to enable Covington to perform all work provided for in the DDP. All such agreements shall be in form and substance reasonably satisfactory to counsel for the Village and Covington and all costs and expenses incurred by the Village in connection therewith shall be reimbursed by Covington.

3.07 Access to the Premises. From and after the date of this Agreement, the Village hereby grants to Covington to the extent permitted by law, the right and license to enter upon the Privately Owned Parcels subject to Section 302 of the EDPL, with equipment and personnel as may be required, upon reasonable notice to the Village and at such reasonable time or times as may be required, for the purposes of performing tests, surveys, inspections or other investigations as reasonably necessary in connection with the Project.

3.08 Developer Purchase of Premises

(a) Purchase Price. The purchase price in connection with Covington's Purchase of the Privately Owned Parcels (the "Purchase Price") from the Village shall be the amount which is equal to the aggregate of the Acquisition Costs and Relocation Costs incurred by the Village for the acquisition of the Privately Owned Parcels and the relocation of legal

displacees at the Premises, including, but not limited to, any settlement or determinations of compensation awarded prior to or subsequent to any Parcel Closing pursuant to Article 5 of the EDPL. At all Parcel Closings Covington shall receive a credit against the portion of the Purchase Price in the amount of the Acquisition Costs and Relocation Costs previously advanced by Covington with respect to such parcel, and for any sums expended by Covington to cure any title defects as required by this Agreement.

(b) Approved Costs. All costs provided for herein shall be substantiated by *bona fide* third party invoices and/or estimates or, in the case of development costs reimbursed to the Village, the invoices of the Village. If the Village and Covington are unable to resolve any dispute regarding costs, the Village and Covington shall select a third party consultant mutually acceptable to them with expertise in the construction of similar projects to resolve the dispute.

(c) Payment of Purchase Price At each Parcel Closing, Covington shall pay to the Village that portion of the Purchase Price which is equal to the amount of Acquisition Costs and Relocation Costs incurred or to be incurred by the Village for the acquisition of the Privately Owned Parcels, subject to a credit for the amount of Developer Funding for that Parcel previously advanced to the Village by bank check or checks payable to the order of the Village and/or the order of such persons or entities as the Village shall direct in writing at least five (5) business days prior to the Parcel Closing Date, or at the Villages or Covington's option, all or a portion of the balance thereof shall be paid by wire transfer of funds to an account or accounts designated by the Village. Covington hereby acknowledges and agrees that as of each Parcel Closing Date there may be outstanding claims for compensation for the Privately Owned Parcels acquired by the Village under the EDPL. Covington hereby acknowledges and agrees that the Acquisition Costs, and accordingly, the Purchase Price, shall include any and all compensation under the EDPL determined to be due to a property owner by the courts, or agreed to be due to a property owner under a settlement of such owners' claims (subject to the approval of Covington, which approval shall not be unreasonably withheld or delayed) after a Parcel Closing (the "Post Closing Consideration"). The Post-Closing Consideration shall also be deemed to include all fees and costs incurred by the Village in the prosecution or defense of such actions under the EDPL and/or the negotiation of settlements thereof, said amounts to be expenses under Section 18.1 of this Agreement. The Post-Closing Consideration shall be due and payable within twenty (20) business days of a written demand therefor which is accompanied by either a copy of the judgment(s) of the court or of the settlement agreement(s) approved by the court with respect to such action. Notwithstanding anything to the contrary in this Agreement, the amounts of all "approved" offers made by the Village under the EDPL shall be based on appraisals made by a qualified appraiser. The provisions of this Section 3.09 shall survive the Parcel Closings and the termination of this Agreement.

(d) No Allocation of Purchase Price Personalty. The Parties hereto agree that no part of any Purchase Price paid hereunder will be paid by Covington for any personal property.

The provisions of this Section 3.09 shall survive the Parcel Closings and the termination of this Agreement.

#### Article 4

**Intentionally Left Blank**

**Article 5**

**CONDITIONS TO CLOSING/ MUTUAL COOPERATION**

**5.01**     Closing Conditions. Each of the following conditions set forth in this Article 5 shall be a condition to the Parties' obligation to close title hereunder to either a Village Property or a Privately Owned Parcel (each, a "Closing Condition" and collectively the "Closing Conditions").

(a)     Receipt of Approvals. Covington and, as appropriate, the Village, shall have obtained each of the unappealable approvals required to redevelop the Project Area in conformity with the DDP, the URP and the Zoning Code, and all other required unappealable approvals as hereinafter described (collectively, the "Approvals"). The Village and Covington acknowledge that the full extent and identity of the Approvals is not presently known. The Village and Covington agree, however, that Covington's obligation to close is dependent upon the securing of all required Approvals in connection with the acquisition, construction and operation of the Village Properties, including but not limited to special use permits, site plan approvals, subdivision approvals, variances, air rights, Putnam County Planning Commission approvals, building permits, licenses, operational licenses, and all other Federal, State, Local, governmental, board, department or other body or public or private entity consents, waivers, variances, variations, modifications, easements, transferable density flow rights, rights of way, exceptions, permits and approvals required in order to construct and operate the Project in conformity with the DDP and the final development plans for each phase thereof, including, without limitation, any of the foregoing required under covenants, easements, restrictions or other documents affecting or limiting the development of the Village Properties and Privately Owned Parcels. No Approval shall be deemed to have been obtained until all rights to challenge, appeal or review, or otherwise deny the applicant the benefits thereof, have expired or been resolved resulting in such Approval remaining in full force and effect and not subject to further appeal or revision.

(b)     Infrastructure.

(i)     The Village shall have obtained title, easements, or rights of way to, in, on, or under all lands reasonably deemed necessary to construct all infrastructure for the Project and all title, easements or other access rights to the Village Properties shall be available to Covington in order to investigate and construct the Project.

(ii)    All funding shall be in place or committed to enable the completion of the portion of infrastructure consistent with the phasing plan as provided by Covington.

(iii)   The Village and/or Covington shall have obtained all property rights necessary for the construction of any off-site infrastructure required for development of the Project, or such portion of the Project as the Parties may agree to be developed in phases, and funding shall be in place or committed to enable completion of the off-site infrastructure.

(c)     Determination of Purchase Price. The Purchase Price of the Privately Owned

Parcels shall have been determined in accordance with the provisions of Article 3 of this Agreement.

(d) Receipt of Good Title/ Certificates of Occupancy, etc./Leases. Covington shall have received and approved a Title Report free from all Title Defects (as said terms are defined in Section 6.03 of this Agreement). In addition, Covington shall have been furnished with all original certificates (including, without limitation, certificates of occupancy), permits and licenses required in connection with use, occupancy and operation of a Privately Owned Parcel.

(e) Receipt of Survey. Covington shall have received all surveys of the Privately Owned Parcels and complying with the conditions set forth in Section 6.04 of this Agreement.

(f) Alternate Provision for Village Parking. Notwithstanding any of the provisions of Section 1.06 of this Agreement, to the extent that Covington is seeking to close title on a Village Property that currently provides Village Parking, Covington shall have the responsibility to provide for a comparable alternative location(s) and/or structure(s) for the Village Parking in a manner that allows the Village to continue receiving revenues from said parking capacity. If unable to do so, and until such time as comparable parking is provided or the Village determines that such comparable parking is not necessary, Covington shall reimburse the Village for the shortfall in Village Parking revenue within sixty (60) days of receipt by Covington of a written accounting from the Village detailing the extent of such shortfall.

**5.02** Securing Approvals. Except as otherwise expressly provided in this Agreement, each of Covington and the Village agrees to use its respective commercially reasonable best efforts to diligently seek and obtain all of the Approvals and to cause all Closing Conditions to be fulfilled as set forth in this Article in a timely manner and each agrees to actively pursue obtaining of the Approvals and fulfilling of said conditions until the Approvals are obtained and the conditions are fulfilled. The Village shall cooperate with Covington's efforts to secure the Approvals, such cooperation to include, without limitation, appearances before and intercession with any body or entity from which an Approval is required. The Village, as owner of the Village Properties, shall execute any applications for such Approvals. In the event of any denial or non-approval, the Village shall advise Covington of the reasons for the determination and permit Covington to make changes to respond to such reasons. Notwithstanding anything contained in this Section 5.02 to the contrary, the Village shall not be deemed to guarantee or require its boards or commissions to approve any such application.

**5.03** Compliance with Comprehensive Plan. The Village will cooperate with Covington, in an effort to determine and effectuate any necessary amendments, modifications of, variances or variations from the Comprehensive Plan, and any other laws, rules, regulations and ordinances that are reasonably necessary in order to permit the redevelopment of the Project Area in accordance with the DDP. Notwithstanding anything contained in this Section 5.03 to the contrary, the Village shall not be deemed to guarantee or require its boards or commissions to approve any such amendment, modification, variance or variation from the Comprehensive Plan. Furthermore, nothing contained herein shall be deemed a waiver of any requirements under SEQRA or other law should such an amendment, modification, variance or variation from the Comprehensive Plan be requested.

**5.04** Waiver. Covington shall have the right to waive any of the conditions to closing contained in this Article 5 (**except §5.01(f)**), along with any other provisions contained in this

Agreement pertaining to the condition of the Privately Owned Parcels or the Feasibility Studies. If Covington waives a condition to closing based on the Village's Building Department ("VBD") not having issued a building permit for a building to be constructed or redeveloped on any Property, then subject to all other conditions required for the issuance of said building permit having been met (other than submission of a complete set of construction documents for a specific permit application), the VBD shall issue a letter to Covington, stating that all conditions have been met for the issuance of a building permit, and once said construction plans are submitted in accordance with the New York State building code, the VBD will promptly process said building permit application and promptly issue a building permit.

**5.05 Obligation to Defend.** The Village, with the cooperation where necessary of Covington, shall, at its sole cost and expense, have the obligation to defend any action related to the approval of the Comprehensive Plan, the URP or the Code Amendments, and any Third Party Approvals related to the Laws of the Village or a Village action or omission in connection with any unrelated third party approval. Covington, shall pay for any costs and expenses associated with any action related to the issuance of any permit, variance or other administrative action by the Village in connection with Covington's construction of the Project.

## **Article 6** **CONVEYANCE**

**6.01 Closings.** Upon all Closing Conditions being satisfied, Covington shall have the right from time to time to send a notice (each, a "Closing Notice") to the Village notifying it that Covington is desirous of proceeding to closing on Privately Owned Property(ies), subject to the condition that the closing date set forth in the Closing Notice shall be no earlier than sixty (60) days after the date of the Closing Notice. Notwithstanding the above, in order to accelerate the development of the Project for the benefit of the Parties, Covington shall have the right from time to time to send a notice (each, an "Accelerated Closing Notice") to the Village notifying it that, despite the fact that one or more Closing Conditions shall not have been satisfied with respect to any given Property(ies), Covington, at its sole risk, is nonetheless desirous of proceeding to closing with respect to same, subject to the condition that the closing date set forth in the Accelerated Closing Notice shall be no earlier than sixty (60) days after the date of the Accelerated Closing Notice. Any closing pursuant to an Accelerated Closing Notice shall be subject to all of the other and further provisions of this Article 6, except for any Closing Condition specifically waived by Covington.

The conveyance of each Property hereunder shall be made at the principal office of the Village or the attorneys for the Village, or at any financial institution providing funds for such conveyance (or such other location as the Parties agree), and Covington shall accept such conveyance and pay the Purchase Price to the Village at the closing(s) for each such Property (the "**Closing**").

**6.02 Form of Deeds.** The Village shall convey to Covington marketable and insurable title to each of the Privately Owned Parcels subject to the terms herein, by bargain and sale deeds with covenants against grantor's acts (hereinafter called the "Deeds"). Notwithstanding the foregoing, Covington shall have the right to send a notice to the Village no later than five (5) business days prior to the date of any Closing directing the Village to convey any Property to an affiliate of Covington or other approved entity, as set forth in the terms and conditions of Article

**6.03 Title; Permitted Encumbrances.**

(a) Covington shall promptly order an examination of title from any reputable title company that is a member of the Board of New York Title Underwriters ("Title Company") and shall cause a copy of the title report (the "Title Report") to be forwarded to the Village's counsel not later than sixty (60) days after the later of the date of receipt of all of the Approvals and the receipt of the Title Report for a Privately Owned Parcel. Notwithstanding the foregoing, if Covington shall have sent a Closing Notice to the Village pursuant to the provisions of Section 6.01 of this Agreement, said Title Report shall be forwarded to counsel for the Village no later than thirty (30) days prior to the Closing Date specified in the Closing Notice. Covington shall notify the Village as to any title exceptions contained in the Title Report which render title unmarketable and uninsurable (hereinafter, "Title Defects"), and which Covington is requesting be removed, or otherwise cleared, by the Village prior to the Closing. Covington shall have thirty (30) days after the date upon which it shall receive any amendments or modifications to the Title Report which contain further Title Defects to notify the Village as to said Title Defects which Covington is requesting be removed, or otherwise cleared, by the Village prior to the Closing. Such conveyance shall be subject to any state of facts an accurate current survey of the Village Properties (including all improvements thereon and the location of any and all easements or encumbrances) may show, provided such state of facts does not render title unmarketable and uninsurable (collectively, the "Permitted Encumbrances").

(b) If the Title Report shows one or more Title Defects, the Village shall (i) in the case of a lien or encumbrance affecting a Privately Owned Property which can be removed by the payment of a sum of money, remove such lien or encumbrance prior to or at Closing or otherwise induce the Title Company to include in its policy of title insurance to be issued to Covington, at no additional premium unless paid by the Village, affirmative insurance provisions insuring the Privately Owned Property against the enforcement and collection of such lien or encumbrance, provided that the Title Company shall omit (without any additional premium or charge (unless paid by the Village) such lien or encumbrance as an exception to coverage in the mortgagee title insurance policy (if any) issued at Closing to any mortgagee of Covington or (ii) in the case of any Title Defect which the Title Company will remove as a result of the Village giving assurances, indemnities or deposits (and not a lien described in (i) above), give such assurances, indemnities or deposits to the Title Company. If the Village fails, is unable or not required to remove or remedy any given Title Defect or to obtain such affirmative insurance, the provisions of Article 9 of this Agreement shall apply.

(c) The Village shall deliver, and Covington shall accept such marketable and insurable title to the Privately Owned Parcels, free and clear of all leases, Title Defects, claims, liens, covenants, restrictions and encumbrances, except for those as to which the Title Company shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, subject only to the Permitted Encumbrances.

(d) Covington, in its own discretion, may waive any objection to title for any Privately Owned Parcel hereunder.

Any cost incurred by the Village under this Paragraph 6.03 in clearing any Title Defects shall be deemed an Acquisition Cost reimbursable by Covington to the Village at the Closing of a Parcel.

**6.04 Survey.** The Village shall furnish all surveys and metes and bounds descriptions of the Privately Owned Parcels to Covington that are in the possession or control of the Village.

**6.05 Apportionment of Current Taxes.** The portion of the current taxes, if any, on the land and improvements constituting or located on the Privately Owned Parcels which are a lien on the date of delivery of the Deeds to Covington shall be borne by the Village. If the amount of the current taxes on the Privately Owned Parcels is not ascertainable on such date, the apportionment between the Village and Covington shall be on the basis of the amount of the most recently ascertainable taxes on the Privately Owned Parcels, but such apportionment shall be subject to final adjustment within thirty (30) days after the date the actual amount of such current taxes is ascertained.

**6.06 Recordation of Deeds.** Covington shall promptly file the Deeds for recordation in the Office of the Clerk of Putnam County. Covington shall pay all costs for so recording the Deeds.

**6.07 Title Evidence and Transfer Tax.** Covington shall pay the cost of its own title insurance or title evidence, and shall further pay the cost of any transfer taxes that may be required, including, without limitation, the New York State transfer tax, as applicable.

**6.08 Condition of Privately Owned Parcels at Time of Conveyance.** Other than as set forth in this Agreement, Covington shall take title to and possession of the Privately Owned Parcels "as is" in their physical condition as of the date of the Closing of title to the Privately Owned Parcels, and the Village shall have no obligation to repair or restore any Parcel, or perform any work to improve or prepare the Privately Owned Parcels for redevelopment in any way

**6.09 Specific Performance.** To the extent it deems it necessary, Covington may bring an action for specific performance or other equitable relief in order to compel specific performance by the Village. In such event, the Parties agree that no bond need be posted.

## **Article 7**

### **RESTRICTIONS UPON USE OF PROPERTY**

**7.01 Restrictions on Use.** Covington agrees for itself, and its successors and assigns, and every successor in interest to the Privately Owned Parcels which are hereafter purchased by Covington from the Village or any part thereof, that the Deeds or other recorded documents shall contain covenants on the part of Covington for itself, and such successors and assigns, in form and substance reasonably satisfactory to the Parties, that Covington, and such successors and assigns, shall:

(a) comply with all Federal, State, Village and local laws in effect from time to time, prohibiting discrimination or segregation by reason or race, creed, color, national origin, age, gender, sexual orientation, marital status or disability in the sale, lease or rental or in the use



or occupancy of the Privately Owned Parcels or any improvements erected or to be erected thereon, or any part thereof;

(b) comply with the regulations issued by the Secretary of Housing and Urban Development set forth in 37 F.R. 22732-3 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards; and

(c) not effect or execute any agreement, lease, conveyance or other instrument whereby the Privately Owned Parcels, or any part thereof, is restricted upon the basis of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability in the sale, lease or occupancy thereof.

**7.02 Village and United States Rights To Enforce.** In amplification, and not in restriction of, the provisions of the preceding Section, it is intended and agreed that the Village and its successors and assigns shall be deemed beneficiaries of the agreements and covenants provided in Section 7.01 hereof, and the United States shall be deemed a beneficiary of the covenant provided in Section 7.01(a) hereof, both for and in their or its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the Village and the United States, for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Village or the United States has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate. The Village shall have the right, in the event of any breach of any such agreement or covenant, and the United States shall have the right in the event of any breach of the covenant provided in Section 7.01(a) hereof, to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

## **Article 8**

### **ASSIGNMENT AND TRANSFER**

**8.01** The Village acknowledges that Covington may form a joint venture with one or more strategic development partners for the Project, and further acknowledges that Covington may bring in other developer participants in connection with the acquisition, construction and/or development of one or more portions of the Project. Covington represents and agrees for itself, its members, and any successor in interest of itself and its members, respectively, that neither Covington, nor any members or managers of Covington, (i) shall assign, transfer or convey, 51% or more of their respective right, title or interest in this Agreement to a joint venture strategic development partner without the express prior written consent of the Village, which consent shall not be unreasonably withheld, delayed or conditioned; or (ii) shall assign, transfer or convey more than a 51% interest in Covington to any other person, firm or entity without the express prior written consent of the Village, which consent shall not be unreasonably withheld, delayed or conditioned. The foregoing restriction on transfer of more than a 51% interest in Covington itself shall not apply to a transfer of interest to a relative of any member of Covington, or to the heirs, beneficiaries, or legal representatives of any member of Covington, or to the executor or administrator of the estate of any deceased member of Covington. In

determining said reasonableness standards, the Village shall consider the financial capabilities, reputation, experience and expertise of the proposed assignee, transferee or grantee, as the case may be; including determining that said proposed assignee, transferee or grantee is not a Prohibited Party ("Reasonableness Standards"). For purposes of this Agreement, a Prohibited Party shall mean any person or related entity that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or has substantial business or other affiliations with an organized crime figure. Notwithstanding the above, Covington may bring in other reputable Covington participants to acquire, construct and/or develop one or more portions of the Project conditioned upon said Covington participants being subject to the same Reasonableness Standards as defined above, without consent, but upon notice to the Village. Said notice shall contain Covington participants' capabilities, reputation, experience and expertise. Any approved assignee of this Agreement shall assume the applicable obligations of Covington under this Agreement in writing, and any approved assignee of a portion of the Project shall assume the applicable Covington's obligations as to such portion of the Project in writing, and an original of any such assignment and assumption agreement shall be delivered to the Village.

## **Article 9**

### **TERMINATION AND REMEDIES**

**9.01 In General.** Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any Party hereto, or any successor to such Party, such Party (or successor) shall, upon written notice from the other, proceed promptly to commence to cure or remedy such default or breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time (said time not to exceed thirty (30) days from the date of notice of default, except if the default or breach in question is such that it cannot reasonably be cured within thirty (30) days, then within a reasonable time period provided that, the defaulting or breaching Party shall have commenced to cure such default or breach and shall be proceeding with diligence, dispatch and continuity to affect such cure) for any default, the non-defaulting or non-breaching Party may (a) institute such legal proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach; (b) exercise any right it may have to terminate this Agreement, or (c) if the non-defaulting party shall be Covington, commence proceedings to compel specific performance by the Village.

**9.02 Termination.** In the event that any of the Approvals are not obtained or any of the other Closing Conditions are not satisfied or fulfilled despite the use of all Parties' commercially reasonable best efforts and after all administrative and, at the option of Covington, legal processes have been exhausted, Covington shall have the option, at Covington's sole cost and expense, but not the obligation, to terminate this Agreement by written notice to the Village (the "**Article 9 Termination Notice**"), except for those provisions which are specifically set forth in this Agreement to survive the termination of this Agreement. In the event this Agreement is so terminated, Covington and the Village, respectively, shall have all of the rights and obligations provided in Article 9 with respect thereto. Notwithstanding the foregoing, Covington shall have the right to waive any Closing Condition in accordance with Section 5.04 hereof.

**9.03 Termination Option by Covington Prior to Conveyance.** In the event:

- (i) final development plans for any phase of the Project in furtherance of

the DDP have not been approved by the Village Planning Board or other applicable Village Board within 120 days of submission by Covington to the Board of a complete application as determined by the Village subject only to customary conditions; or

(ii) any of the Closing Conditions described in Article 5 are not satisfied;  
or

(iii) a default by the Village under Section 9.01 continues beyond the expiration of any applicable cure period; or

(iv) the Village does not tender conveyance of the Village Properties or the Privately Owned Parcels, or possession thereof, in the manner and condition provided, and any such failure to convey shall not be cured within thirty (30) days after the date of written demand by Covington, except if such failure is attributable solely to the fault of Covington;

then this Agreement may, at the option (but not the obligation) of Covington, be terminated by written notice thereof to the Village.

**9.04 Covington Work Product.** Notwithstanding anything herein to the contrary, Covington shall retain all rights to its work product in connection with the DDP and all plans, studies, surveys, test results reports and any other document or work product related thereto whether currently existing or hereinafter prepared. The provisions of this Section 9.04 shall survive the termination of this Agreement.

**9.05 Termination by Village Prior to Conveyance.** In the event prior to conveyance of the Village Properties or the Privately Owned Parcels to Covington and in violation of this Agreement:

(i) Covington does not pay the Purchase Price and take title to the Privately Owned Parcels upon tender of conveyance by the Village in compliance with the terms of this Agreement, and such default or failure shall not be cured, or a commencement to cure has taken place, within thirty (30) days after the date of written demand by the Village, and provided in each such case, the Village is not then in default of any of their material obligations hereunder;  
or

(ii) a default by Covington continues beyond the expiration of any applicable cure period;

then, in any of the events described in clause (i) or (ii) above, provided, that Covington shall not have cured such failure or default within the time periods set forth in Section 9.01 of this Agreement, any rights of Covington, or any assignee, transferee, grantee or affiliate thereof in this Agreement, or arising therefrom with respect to the Village or any Privately Owned Parcel, shall, at the option (but not the obligation) of the Village, be terminated by the Village, in which event neither Covington, said assignee, transferee, grantee or affiliate, nor the Village shall have any further rights against or liability to the other under this Agreement, except for those provisions which are specifically set forth in this Agreement to survive the termination of this Agreement.

**9.06 Other Rights and Remedies of the Parties; No Waiver by Delay.** Except as otherwise provided in this Agreement, each Party shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Article 9, including also the right to execute and record or file among the public land records in the office in which this Agreement or the Deeds or both are recorded, a written declaration of the termination of all the right, title, and interest of Covington, and its successors in interest and assigns, in the Privately Owned Parcels, provided that any delay by any Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article 9 shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way, it being the intent of this provision that no Party should be constrained (so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise) from exercising such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by any Party with respect to any specific default by another Party under this Article be considered or treated as a waiver of the rights of the non-defaulting Party with respect to any other defaults by another Party under this Article or with respect to the particular default except to the extent specifically waived in writing.

**9.07 Rights and Remedies Cumulative.** The rights and remedies of the Parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other Party. No waiver made by either such Party with respect to the performance, or manner or time thereof, or any obligation of the other Party or any condition to its own obligations under this Agreement shall be considered a waiver of any rights of the Party making the waiver with respect to the particular obligation of the other Party or condition to its own obligations beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

## **Article 10**

### **EQUAL EMPLOYMENT OPPORTUNITY**

**10.01 Equal Employment Opportunity.** Covington, for itself and its successors and assigns, agrees that during the construction of the improvements on the Village Property and the Privately Owned Parcels provided for in this Agreement:

(a) Covington will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability. Covington will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, age, gender, sexual orientation, marital status or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

**10.02 State Equal Opportunity in Construction Employment.** During the performance of this Agreement on the Village Property, Covington agrees that Covington will not discriminate against any employee or applicant for employment because of race, creed, color,

national origin, age, gender, sexual orientation, marital status or disability, and will take affirmative action to insure that they are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability. Such action shall be taken with reference, but not be limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation and selection for training or retraining, including apprenticeship and on-the job training;

**10.03 Equal Employment Opportunity.** Covington, for itself and its successors and assigns, agrees that, if any principal of Covington becomes a partner with another developer ("Other Developer") for the development of any improvements located within the Project Area, Covington will cause such Other Developer not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability, and will cause such Other Developer to take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, age, gender, sexual orientation, marital status or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

**10.04 State Equal Opportunity in Construction Employment.** If any principal of COVINGTON becomes a partner with an Other Developer, Covington will cause such Other Developer to not discriminate against any employee or applicant for employment because of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability, and will take affirmative action to insure that they are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, age, gender, sexual orientation, marital status or disability. Such action shall be taken with reference, but not be limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation and selection for training or retraining, including apprenticeship and on-the job training.

## **Article 11**

### **ADDITIONAL COVENANTS**

**11.01 Covenant of Good Faith and Fair Dealing.** The Parties recognize that the successful planning and execution of the Project and their respective ability to perform their obligations under this Agreement will require extraordinary cooperation among them. Accordingly, this Agreement imposes an obligation of good faith and fair dealing on Covington and the Village in the performance and enforcement of their respective rights and obligations and the goals and objectives hereunder. Covington and the Village, with a shared commitment to honesty and integrity in the performance and administration of this Agreement, agree to the following mutual duties: (i) each will be held to a standard of good faith and fair dealing in the performance of its duties and obligations under this Agreement, (ii) each will function within the laws and statutes applicable to their duties and responsibilities, (iii) each will cooperate to facilitate the other's performance, (iv) each will avoid hindering the other's performance, (v) each will respond promptly and completely to the reasonable requests of the other, (vi) each will proceed to fulfill its obligations under this Agreement diligently and honestly, (vii) except as

otherwise provided in this Agreement for the giving or the withholding of the Village's consent, approval or the like in its or their sole and arbitrary or absolute discretion, each agrees to use all commercially reasonable efforts to discharge their respective obligations under this Agreement and to assist each other in discharging their obligations under this Agreement which are dependent in any measure in another Party's performance, and (viii) each will cooperate in the common endeavor of completing the performance and administration of this Agreement and the consummation of the transactions contemplated by this Agreement in a timely and efficient manner. Except as otherwise provided in this Agreement for a consent or approval to be given or withheld in the sole and arbitrary discretion of a Party, all other consents and approvals required or desired of any Party shall be promptly addressed and not unreasonably withheld, delayed or conditioned.

**11.02 Force Majeure and Other Delay.** Whenever a period of time is prescribed for action to be taken by any Party to this Agreement, no Party shall be liable or responsible for, and there shall be excluded from the computation of any such period of time the duration of any delays due to strikes, riots, acts of God, shortages of labor or materials, war, insurrection, riot, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of such Party. Whenever a Party's performance is dependent in any measure on the performance of another Party or third party that is not timely or that is otherwise delayed, the time for completion of the performance required of the dependent Party shall be extended for a period equal to the duration of such delay.

**11.03 Recordation of Memorandum of Agreement.**

At any time after the date of this Agreement, any of the Parties shall have the right to record a memorandum of this Agreement in the form annexed hereto as **Exhibit D** (the "**Memorandum**"). All Parties to this Agreement shall execute the Memorandum, which shall be appropriately acknowledged, simultaneously with the execution of this Agreement, along with all transfer tax forms required to record the Memorandum in the appropriate offices of record.

**11.04 Arbitration of Disputes; and Issue Resolution in Certain Circumstances.**

(a) Any dispute, controversy or claim arising out of or in connection with this Agreement or any breach or alleged breach hereof shall, upon the request of a Party, be submitted to, and settled by, arbitration by the American Arbitration Association at Westchester, New York pursuant to the commercial arbitration rules then in effect (or at any other time or place or under any other form of arbitration mutually acceptable to the Parties). The expenses of the arbitration shall be borne equally by the Parties, provided, that each Party shall pay for and bear the cost of its own experts and evidence, except that the prevailing Party shall be entitled to its reasonable attorneys' fees.

(b) The Parties agree to abide by all decisions and awards rendered in such proceedings. Such decisions and awards rendered by the arbitrator shall be final and conclusive upon the Parties, and a judgment thereon may be entered in a court of competent jurisdiction. All such controversies, claims or disputes shall be settled in this manner in lieu of any action at law or equity; provided, that nothing in this Section shall be construed as precluding the bringing of an action for injunctive relief or other equitable relief. The arbitrator shall not have the right to award punitive damages or speculative damages to either Party, and shall not have the power

to amend this Agreement. The arbitrator shall be required to follow applicable law, and the terms and conditions of this Agreement.

(c) If any claim is found not to be arbitrable due to, *inter alia*, a statutory policy precluding the arbitration of such claim, or if the Parties are unable to agree upon a mutually acceptable arbitrator (regardless of the reason), then the claim shall not be submitted to arbitration and the Parties consent to the non-exclusive jurisdiction of the state and federal courts in the County of Westchester for the adjudication of such controversy, claim or dispute.

## **Article 12**

### **MISCELLANEOUS**

**12.01 Modifications.** This Agreement shall not be modified or supplemented, except by an instrument in writing signed by the Village and Covington.

**12.02 Recitals.** The Recitals set forth above shall be incorporated into, and shall form a part of, this Agreement.

**12.03 Governing Law.** This Agreement and the rights of the Parties hereunder shall be construed and governed by the laws of the State of New York without regard to principles of conflicts of laws.

**12.04 Further Assurances.** The Parties hereto agree to make, execute and deliver all further instruments and documents reasonably necessary or proper to fully effectuate the terms, covenants and provisions of this Agreement.

**12.05 Entire Agreement.** This Agreement (together with any schedules and exhibits hereto), sets forth the entire agreement and understanding of the Parties in respect to the subject matter hereof and supersedes all prior agreements (written and oral), arrangements, negotiations or understandings and shall inure to and bind the successors and assigns of the respective Parties hereto, and shall not be modified or supplemented, except by an instrument in writing signed by the Parties.

**12.06 Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**12.07 Binding Effect.** This document shall not bind any Party unless and until each Party, in their respective sole and absolute discretion, elects to be bound hereby by executing and delivering to the other Parties an executed original counterpart hereof.

**12.08 Gender and Number.** Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural thereof. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation."

**12.09 Headings.** The headings of the Paragraphs of this Agreement have been inserted for convenience of reference only and shall not constitute a part hereof.

**12.10 Successors and Assigns; No Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, and to the extent specifically permitted hereunder their respective designees, successors and assigns.

**12.11 Waiver of Trial by Jury.** THE VILLAGE AND COVINGTON HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT.

**12.12 Jurisdiction.** Each Party agrees to submit to personal jurisdiction in the State of New York in any action or proceeding arising out of this Agreement and, in furtherance of such agreement, each Party hereby agrees and consents that without limiting other methods of obtaining jurisdiction, personal jurisdiction over each Party in any such action or proceeding may be obtained within or without the jurisdiction of any court located in the State of New York, Westchester County and that any process or notice of motion or other application to any such court in connection with any such action or proceeding may be served upon each Party as provided for in the New York State Civil Practice Laws and Rules.

**12.13 Authority.** The Parties represent that that they are duly authorized to enter into this Agreement and to execute any and all documentation necessary to effectuate the terms contained herein, and have each taken all requisite action to obtain such authorization. All references to the Parties in this Agreement shall be deemed to also be references to such officers or employees or other designees of the Parties as may be appropriate to implement the terms of this Agreement.

**12.14 Notices.** All notices, consents, approvals and required agreements of the Parties under this Agreement ("**Notices**") shall be in writing and shall be delivered either personally (receipt acknowledged), or, by certified mail or recognized overnight carrier, in either case, return receipt requested, and addressed to the respective Parties at the addresses first written above and shall be deemed served on the date of delivery or the date of refusal as shown on a return receipt, as the case may be. Notices provided by the respective attorneys shall be deemed sufficient within the meaning of this paragraph without the signature of the Parties themselves. Copies of Notices shall be simultaneously sent to:

If to the Village:

The Honorable James J. Schoenig, Mayor  
Village Hall  
50 Main Street  
Brewster, New York 10509

With Copy To:

Anthony R. Mole', Esq.  
Village Attorney  
Herodes & Molé, P.C.  
888 Route Six  
Mahopac, New York 10541



If to COVINGTON: Covington Development, Ltd.  
322 Clock Tower Commons,  
Brewster, New York 10509  
Att: Mr. Lawrence Nadel or Mr. Harold Lepler

With Copy To: Donald M. Rossi, Esq.  
Hogan & Rossi  
3 Starr Ridge Road-Suite 200  
Brewster, New York 10509

Each of the Parties hereto shall promptly notify each other of the change of their respective addresses.

**12.15 Conflict of Interests; Village Representatives Not Individually Liable.** No member, official, agent or employee of the Village shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, agent or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested.

**12.16 Non-waiver.** No failure or delay of any Party in the exercise of any right or remedy given to such Party hereunder, or the waiver by any Party of any condition hereunder for its benefit shall constitute a waiver of any other or further right or remedy nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or any other right or remedy. No waiver by any Party of any other breach hereunder or failure or refusal by the other Party to comply with its obligations shall be deemed a waiver of any other or subsequent breach, failure or refusal to so comply.

**12.17 Amendment and Renewal.** Reference to this Agreement herein shall include any amendment or renewal hereof.

**12.18 Effectiveness.** This Agreement shall become effective as of the date hereof on the execution hereof by all of the Parties hereto.

**12.19 Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

**12.20 Agents and Brokers.** The Parties hereto represent to each other that neither has dealt with a real estate agent or a real estate broker (collectively, a "Broker") in connection with this transaction and that there is no Broker entitled to a commission of any kind as the result of this transfer. In the event either Party has caused or suffered anything to be done which give rise to a claim of a commission by a Broker, said Party so responsible shall indemnify and hold harmless the other Party from said claim, including reasonable attorneys fees and disbursements incurred by said other Party in defense of such claim. The provisions of this Section shall survive the closing of title or other termination of this Agreement.

**12.21 Legal Fees.** The Parties agree that the prevailing Party in any action or proceeding by either of the Parties to enforce the provisions hereof or to recover damage for breach of any of the provisions of this Agreement shall be entitled to recover from the non-prevailing Party all of

the prevailing Party's reasonable costs and expenses including, without limitation, court costs and reasonable attorneys' fees, costs and expenses. Except as provided in the preceding sentence, the Parties shall be responsible for their own defense and legal fees in connection with any other action or proceeding involving the Project, including those incurred in defending the contemplated development against any and all lawsuits or other legal challenges or opposition and, to preserve and enable the consummation thereof. If appropriate, the Parties will coordinate and cooperate with each other in connection with any such legal efforts in furtherance of the Project.

**12.22 Negotiated Document.** The Parties acknowledge that the provisions and language of this Agreement have been negotiated, and agree that no provision of this Agreement shall be construed against any Party by reason of such Party having drafted such provision of this Agreement.

**12.23 Confidential Information.** In connection with this LADA, the Parties may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to the other party in connection with the Project. The Parties agree that they will keep and maintain such information securely and confidentially, and not disclose such information to any third Parties, including, the media, nor use such information in any manner publicly or privately, without receiving the prior approval, in writing, of the other party authorizing such use, as long as such information is clearly identified by the other party as confidential. The Parties agree to be responsible for compliance herewith by their subsidiaries, affiliates, employees, representatives, advisors and/or agents. Nothing herein contained shall be deemed to prohibit Parties from complying with any rules, regulations, statutes or orders of any court or regulatory authority with competent jurisdiction, including, without limitation, the New York Open Meetings Law and Freedom of Information Law. This provision does not apply to information, which (i) is or becomes generally available to the public other than as a result of unauthorized disclosure by one of the Parties, or (ii) was available to the other Party on a non-confidential basis from a source other than a Party herein. The Parties' obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the other Party shall survive the termination or expiration of this LADA. Any and all costs related to the protection of confidential information provided to the Village by Covington shall be at the sole cost and expense of Covington.

**12.24 Public Announcements.** Covington and the Village each agrees not to make or issue or cause to be made or issued any public announcement, press release, media release or other publicity concerning this Agreement, the Parties hereto, the DDP or other development plans, or any planning, land acquisition, land disposition, financing, relocation or other concepts addressed in this LADA, without the prior consent of the other.

**12.25 No Recourse.** All covenants, stipulations, promises, agreements and obligations of the Parties contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of said Parties, respectively, and not of any officer, member, agent, servant or employee of the Parties in his, her or its individual capacity, and no recourse shall be had against any past, present or future officer, member, shareholder, agent, servant or employee of the Parties based on any matter set forth herein. It is expressly understood that no personal liability whatever shall attach to, or is or shall be incurred by, any such officer, member, shareholder, agent, servant or employee of a Party, and that any right to

seek such personal liability is expressly waived and released as a condition of, and as a consideration for, the execution of this Agreement.

**12.26 No Third Party Beneficiaries.** Except as may be expressly provided to the contrary in this Agreement, nothing contained in this Agreement shall be construed to confer upon any person other than the Parties hereto, any rights, remedies, privileges, benefits or causes of action to any extent whatsoever.

**12.27 No Restriction on Amendment of URA.** Nothing herein contained shall limit or restrict the Village from expanding the area within the URA provided all applicable laws, rules and regulations are complied with in order to effectuate same.


**IN WITNESS WHEREOF,** the Village has caused this Agreement to be duly executed in its name and behalf by its Mayor, and Covington has caused this Agreement to be duly executed in its name and behalf, on or as of the date first above written.

**(SIGNATURES APPEAR ON THE NEXT PAGE)**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

VILLAGE OF BREWSTER

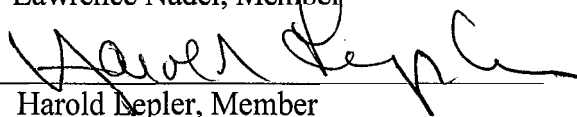
By:   
The Honorable James Schoenig, Mayor

Dated: 1-5-17 1/5/17 

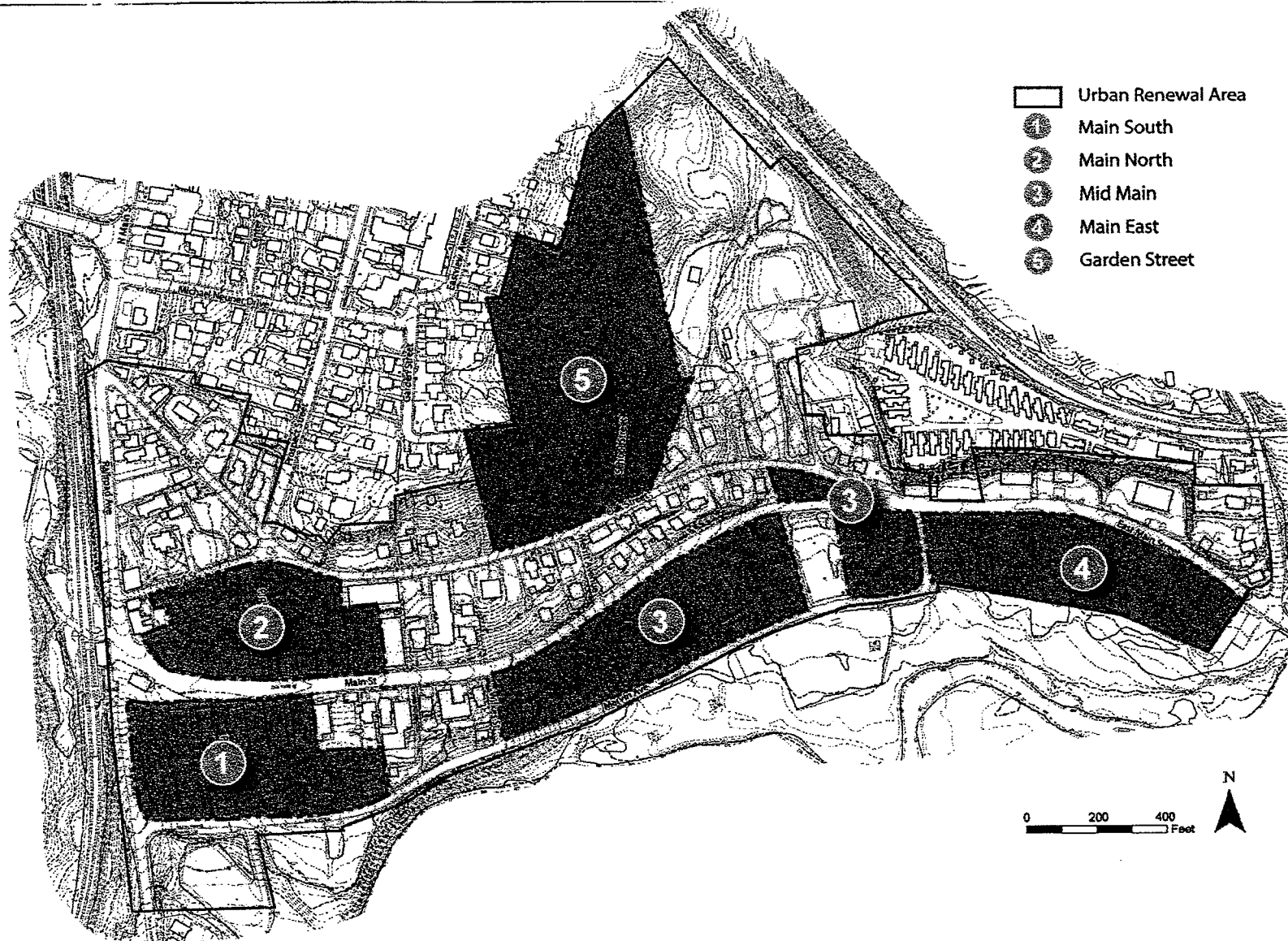
COVINGTON DEVELOPMENT, LLC

By:   
Lawrence Nadel, Member

Dated: 1/6/17

By:   
Harold Depler, Member

Dated: 1/6/17



Boundaries of the Project Area

# EXHIBIT A

**BREWSTER URBAN RENEWAL AREA**  
Putnam County, New York

**HLB** Engineering, Surveying and Landscape Architecture, P.C.

**Urban Renewal Area and  
Redevelopment Sub-Areas**

Exhibit  
**1**

**EXHIBIT B**

**VILLAGE OWNED PROPERTIES**

## EXHIBIT B

---

2016 01 432	56.81-1-14	21	
VILLAGE OF BREWSTER		PUTNAM TER	
50 MAIN ST			
BREWSTER NY 10509			
<hr/>			
2016 01 431	67.-2-1.1	25	-55
VILLAGE OF BREWSTER		MARVIN AVE	
50 MAIN ST			
BREWSTER NY 10509			
<hr/>			
2016 01 430	67.7-2-4		
VILLAGE OF BREWSTER		HILLSIDE TER	
PARK STREET WATER DISTRICT			
50 MAIN ST			
BREWSTER NY 10509			
<hr/>			
2016 01 429	67.36-2-2	208	
VILLAGE OF BREWSTER		MAIN ST	
PARK STREET			
50 MAIN ST			
BREWSTER NY 10509			

## **EXHIBIT C**

### **PRIVATELY OWNED PARCELS**

#### **LIST OF PRIVATELY OWNED PARCELS WITHIN THE PROJECT AREA BY TAX MAP NUMBER AS SHOWN ON THE TAX ASSESSMENT ROLL**

Section-Block- Lot	Street Address	Municipality	State	Zip Code
67.27-1-1	22 GARDEN ST	Brewster	NY	10509
67.34-1-1	472 NORTH MAIN ST	Brewster	NY	10509
67.34-1-10	10 HOYT ST	Brewster	NY	10509
67.34-1-11	7 OAK ST	Brewster	NY	10509
67.34-1-2	470 NORTH MAIN ST	Brewster	NY	10509
67.34-1-3	468 NORTH MAIN ST	Brewster	NY	10509
67.34-1-37	20 GARDEN ST	Brewster	NY	10509
67.34-1-4	466 NORTH MAIN ST	Brewster	NY	10509
67.34-1-5	15 OAK ST	Brewster	NY	10509
67.34-1-6	460 NORTH MAIN ST	Brewster	NY	10509
67.34-1-7	6-8 HOYT ST	Brewster	NY	10509
67.34-1-8	450 NORTH MAIN ST	Brewster	NY	10509
67.34-1-9	21 OAK ST	Brewster	NY	10509
67.34-2-1	13 HOYT ST	Brewster	NY	10509
67.34-2-10	25 OAK ST	Brewster	NY	10509
67.34-2-11	10 PROGRESS ST	Brewster	NY	10509
67.34-2-12	8 PROGRESS ST	Brewster	NY	10509
67.34-2-13	4-6 PROGRESS ST	Brewster	NY	10509
67.34-2-14	72 MAIN ST	Brewster	NY	10509
67.34-2-15	74-76 MAIN ST	Brewster	NY	10509
67.34-2-16	78 MAIN ST	Brewster	NY	10509
67.34-2-17	80-88 MAIN ST	Brewster	NY	10509
67.34-2-18	90-94 MAIN ST	Brewster	NY	10509
67.34-2-19	98-100 MAIN ST	Brewster	NY	10509
67.34-2-2	11 HOYT ST	Brewster	NY	10509
67.34-2-20	104 MAIN ST	Brewster	NY	10509
67.34-2-21	108 MAIN ST	Brewster	NY	10509
67.34-2-23	39 OAK ST	Brewster	NY	10509
67.34-2-24.1	114 MAIN ST	Brewster	NY	10509
67.34-2-24.2	41 OAK ST	Brewster	NY	10509
67.34-2-25	128 MAIN ST	Brewster	NY	10509
67.34-2-26	132 MAIN ST	Brewster	NY	10509
67.34-2-27	59 OAK ST	Brewster	NY	10509
67.34-2-28	57 OAK ST	Brewster	NY	10509
67.34-2-29	53 OAK ST	Brewster	NY	10509
67.34-2-3.1	2-16 MAIN ST	Brewster	NY	10509



67.34-2-3.2	7-9 HOYT ST	Brewster	NY	10509
67.34-2-30	43 OAK ST	Brewster	NY	10509
67.34-2-31	35 OAK ST	Brewster	NY	10509
67.34-2-32	31 OAK ST	Brewster	NY	10509
67.34-2-33	29 OAK ST	Brewster	NY	10509
67.34-2-34	27 OAK ST	Brewster	NY	10509
67.34-2-35	99 MAIN ST	Brewster	NY	10509
67.34-2-36	97 MAIN ST	Brewster	NY	10509
67.34-2-37	95 MAIN ST	Brewster	NY	10509
67.34-2-38	91-93 MAIN ST	Brewster	NY	10509
67.34-2-39	4-6 WILKES ST	Brewster	NY	10509
67.34-2-4.1	20-30 MAIN ST	Brewster	NY	10509
67.34-2-4.2	50 MAIN ST	Brewster	NY	10509
67.34-2-4.3	5 PROGRESS ST	Brewster	NY	10509
67.34-2-40	40 MARVIN AVE	Brewster	NY	10509
67.34-2-41	44 MARVIN AV	Brewster	NY	10509
67.34-2-42	89 MAIN ST	Brewster	NY	10509
67.34-2-43	MAIN ST	Brewster	NY	10509
67.34-2-44	85 MAIN ST	Brewster	NY	10509
67.34-2-45.-1	81 MAIN ST	Brewster	NY	10509
67.34-2-45.-2	24 MARVIN AVE	Brewster	NY	10509
67.34-2-46	79 MAIN ST	Brewster	NY	10509
67.34-2-47	67 MAIN ST	Brewster	NY	10509
67.34-2-48	MAIN ST	Brewster	NY	10509
67.34-2-49	65 MAIN ST	Brewster	NY	10509
67.34-2-5	22 MAIN ST	Brewster	NY	10509
67.34-2-50	63 MAIN ST	Brewster	NY	10509
67.34-2-51	55-61 MAIN ST	Brewster	NY	10509
67.34-2-52	47-49 MAIN ST	Brewster	NY	10509
67.34-2-53	39-45 MAIN ST	Brewster	NY	10509
67.34-2-54	35 MAIN ST	Brewster	NY	10509
67.34-2-55	31 MAIN ST	Brewster	NY	10509
67.34-2-56	1 MAIN ST	Brewster	NY	10509
67.34-2-6	52 MAIN ST	Brewster	NY	10509
67.34-2-7	56-62 MAIN ST	Brewster	NY	10509
67.34-2-8	64-70 MAIN ST	Brewster	NY	10509
67.34-2-9	3 PROGRESS ST	Brewster	NY	10509
67.35-1-1	50 MARVIN AV	Brewster	NY	10509
67.35-1-10	120-124 MARVIN AV	Brewster	NY	10509
67.35-1-11	141 MAIN ST	Brewster	NY	10509
67.35-1-12	139 MAIN ST	Brewster	NY	10509
67.35-1-13	137 MAIN ST	Brewster	NY	10509
67.35-1-14	1101-2208 MAYOR MITCHELL	Brewster	NY	10509

67.35-1-16	125 MAIN ST	Brewster	NY	10509
67.35-1-17	121 MAIN ST	Brewster	NY	10509
67.35-1-18	117 MAIN ST	Brewster	NY	10509
67.35-1-19	111 MAIN ST	Brewster	NY	10509
67.35-1-2	52-54 MARVIN AV	Brewster	NY	10509
67.35-1-20	107 MAIN ST	Brewster	NY	10509
67.35-1-21	101 MAIN ST	Brewster	NY	10509
67.35-1-22	61 OAK ST	Brewster	NY	10509
67.35-1-23	134-136 MAIN ST	Brewster	NY	10509
67.35-1-24	1 MERRITT LN	Brewster	NY	10509
67.35-1-25	3 MERRITT LN	Brewster	NY	10509
67.35-1-26	5 MERRITT LN	Brewster	NY	10509
67.35-1-27	7 MERRITT LN	Brewster	NY	10509
67.35-1-28	81 OAK ST	Brewster	NY	10509
67.35-1-29	85-87 OAK ST	Brewster	NY	10509
67.35-1-3	56 MARVIN AV	Brewster	NY	10509
67.35-1-30	152 MAIN ST	Brewster	NY	10509
67.35-1-32	154 MAIN ST	Brewster	NY	10509
67.35-1-33	71-73 OAK ST	Brewster	NY	10509
67.35-1-34	65 OAK ST	Brewster	NY	10509
67.35-1-4	58-60 MARVIN AV	Brewster	NY	10509
67.35-1-5	62-66 MARVIN AV	Brewster	NY	10509
67.35-1-50	155 MAIN ST	Brewster	NY	10509
67.35-1-51	151-153 MAIN ST	Brewster	NY	10509
67.35-1-52	149 MAIN ST	Brewster	NY	10509
67.35-1-53	147 MAIN ST	Brewster	NY	10509
67.35-1-54	145 MAIN ST	Brewster	NY	10509
67.35-1-55	121 MARVIN AV	Brewster	NY	10509
67.35-1-6	70 MARVIN AV	Brewster	NY	10509
67.35-1-7	72 MARVIN AV	Brewster	NY	10509
67.35-1-8	80 MARVIN AV	Brewster	NY	10509
67.35-1-9	86 MARVIN AV	Brewster	NY	10509
67.36-1-1	177 MAIN ST	Brewster	NY	10509
67.36-1-10	159 MAIN ST	Brewster	NY	10509
67.36-1-2	175 MAIN ST	Brewster	NY	10509
67.36-1-3	173 MAIN ST	Brewster	NY	10509
67.36-1-4	167 MAIN ST	Brewster	NY	10509
67.36-1-5	171 MAIN ST	Brewster	NY	10509
67.36-1-6	165 MAIN ST	Brewster	NY	10509
67.36-1-7	161 MAIN ST	Brewster	NY	10509
67.36-1-8	161A MAIN ST	Brewster	NY	10509
67.36-1-9	159A MAIN ST	Brewster	NY	10509
67.42-1-1-1	400 RAILROAD AV	Brewster	NY	10509

67.42-1-1.-2	27 MAIN ST	Brewster	NY	10509
67.42-1-2	2 MARVIN AV	Brewster	NY	10509
67.42-1-3	15 PARK ST	Brewster	NY	10509
67.42-1-4	7 PARK ST	Brewster	NY	10509
67.42-1-5	5 PARK ST	Brewster	NY	10509
67.42-1-6	4-10 PARK ST	Brewster	NY	10509
67.42-1-7	10 MARVIN AV	Brewster	NY	10509
67.42-1-8	36 MARVIN AV	Brewster	NY	10509

**EXHIBIT D**

**TRANSIT PROPERTIES**

# EXHIBIT D

---

2016 01 410	56.82-1-1	531
CITY OF NEW YORK DEP		NORTH MAIN ST
BUREAU OF WATER SUPPLY, TAXES		
71 SMITH AVE		
KINGSTON NY 12404		
2016 01 411	67.-2-1.2	57
CITY OF NEW YORK DEP		MARVIN AVE
BUREAU OF WATER SUPPLY, TAXES		
71 SMITH AVE		
KINGSTON NY 12401		
2016 01 412	67.11-2-2	391
CITY OF NEW YORK DEP		RAILROAD AVE
BUREAU OF WATER SUPPLY, TAXES		
71 SMITH AVE		
KINGSTON NY 12401		
2016 01 413	67.11-2-3	390
CITY OF NEW YORK DEP		RAILROAD AVE
BUREAU OF WATER SUPPLY, TAXES		
71 SMITH AVE		
KINGSTON NY 12401		
2016 01 414	67.11-2-4	1
CITY OF NEW YORK DEP		MORNINGTHORPE AVE
BUREAU OF WATER SUPPLY, TAXES		
71 SMITH AVE		
KINGSTON NY 12401		

2016 01 415 67.11-2-5 3  
CITY OF NEW YORK DEP MORNINGTHORPE AVE  
BUREAU OF WATER SUPPLY, TAXES  
71 SMITH AVE  
KINGSTON NY 12401

2016 01 416 67.26-1-1 485  
CITY OF NEW YORK DEP NORTH MAIN ST  
BUREAU OF WATER SUPPLY, TAXES  
71 SMITH AVE  
KINGSTON NY 12401

2016 01 417 67.36-2-1 40  
CITY OF NEW YORK DEP PEACEABLE HILL RD  
BUREAU OF WATER SUPPLY, TAXES  
71 SMITH AVE  
KINGSTON NY 12401

2016 01 418 67.42-1-1.-1 400  
CITY OF NEW YORK DEP RAILROAD AVE  
BUREAU OF WATER SUPPLY, TAXES  
71 SMITH AVE  
KINGSTON NY 12401

2016 01 420 630.1-999-131.600-  
NYS ELEC & GAS CORP OUTSIDE PLANT  
UTILITY SHARE SERV. LOCAL TAX  
70 FARM VIEW DRIVE  
NEW GLOUCESTER ME 04260

2016 01 421 630.1-9999-131.600  
NYS ELEC & GAS CORP OUTSIDE PLANT  
UTILITY SHARE SERV. LOCAL TAX  
70 FARM VIEW DR  
NEW GLOUCESTER ME 04260

2016 01 422 630.1-9999-131.600

NYS ELEC & GAS CORP

OUTSIDE PLANT

UTILITY SHARED SERV. LOCAL TAX

70 FARM VIEW DR

NEW GLOUCESTER ME 04260

2016 01 423 630.1-9999-131.600

NYS ELEC & GAS CORP

OUTSIDE PLANT

UTILITY SHARED SERV. LOCAL TAX

70 FARM VIEW DR

NEW GLOUCESTER ME 04260

2016 01 424 630.1-9999-131.600

NYS ELEC & GAS CORP

OUTSIDE PLANT

UTILITY SHARED SERV. LOCAL TAX

70 FARM VIEW DR

NEW GLOUCESTER ME 04260

2016 01 454 56.19-2-4  
MIDTOWN TRACKAGE VENTURES LLC PUTNAM AVE  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 453 56.19-2-5 2630  
MIDTOWN TRACKAGE VENTURES LLC CARMEL AVE  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 452 56.81-1-1 36  
MIDTOWN TRACKAGE VENTURES LLC PUTNAM AVE  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 432 56.81-1-14 21  
VILLAGE OF BREWSTER PUTNAM TER  
50 MAIN ST  
BREWSTER NY 10509

---

2016 01 431 67.-2-1.1 25 -55  
VILLAGE OF BREWSTER MARVIN AVE  
50 MAIN ST  
BREWSTER NY 10509

---

2016 01 430 67.7-2-4  
VILLAGE OF BREWSTER HILLSIDE TER  
PARK STREET WATER DISTRICT  
50 MAIN ST  
BREWSTER NY 10509

---

2016 01 451 67.7-2-6 2630  
MIDTOWN TRACKAGE VENTURES LLC CARMEL AVE  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 450 67.7-2-7 475



MIDTOWN TRACKAGE VENTURES LLC NORTH MAIN ST  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 449 67.7-2-8 401  
MIDTOWN TRACKAGE VENTURES LLC RAILROAD AVE  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 448 67.8-2-1 925  
MIDTOWN TRACKAGE VENTURES LLC ROUTE 22  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 447 67.8-2-2 566  
MIDTOWN TRACKAGE VENTURES LLC NORTH MAIN ST  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 446 67.11-2-1 393  
MIDTOWN TRACKAGE VENTURES LLC RAILROAD AVE  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---

2016 01 461 67.26-1-2 501  
FIRE DISTRICT BREWSTER - SOUTH NORTH MAIN ST  
501 NORTH MAIN ST  
BREWSTER NY 10509

2016 01 464 67.27-1-1 22  
BREWSTER CENTRAL SCHOOL DIST. GARDEN ST  
ATTN: GARDEN STREET SCHOOL  
30 FARM TO MARKET RD  
BREWSTER NY 10509

---

2016 01 436 67.27-1-2 98  
TOWN OF SOUTHEAST OAK ST  
RECREATION - WELLS PARK  
1 MAIN ST  
BREWSTER NY 10509

2016 01 463 67.34-1-37 20  
BREWSTER CENTRAL SCHOOL DIST. GARDEN ST  
ATTN: GARDEN STREET SCHOOL  
30 FARM TO MARKET RD  
BREWSTER NY 10509

---

2016 01 444 67.34-2-4.2 50  
PUTNAM COMMUNITY FOUNDATION MAIN ST  
50 MAIN ST  
BREWSTER NY 10509

2016	01	462	67.34-2-46	79
BREWSTER LIBRARY ASSN				MAIN ST
TOWN OF SOUTHEAST				
79 MAIN ST				
BREWSTER NY 10509				

---

2016	01	435	67.34-2-47	67
TOWN OF SOUTHEAST				MAIN ST
SPECIAL DIST - MAIN ST				
1 MAIN ST				
BREWSTER NY 10509				

---

2016	01	442	67.34-2-49	65
PUTNAM COMMUNITY HOSPITAL				MAIN ST
C/O: HEALTH QUEST				
1351 ROUTE 55 STE 200				
LAGRANGEVILLE NY 12540				

---

2016	01	434	67.34-2-56	1
TOWN OF SOUTHEAST				MAIN ST
MAIN ST TOWN HALL				
1360 ROUTE 22				
BREWSTER NY 10509				

---

2016 01 443 67.35-1-14 1101 -2208  
PUTNAM COMMUNITY FOUNDATION MAYOR MITCHELL CT  
50 MAIN ST  
BREWSTER NY 10509

---

2016 01 441 67.35-1-17 121  
PUTNAM COUNTY OFFICE MAIN ST  
40 GLENEIDA AVE  
CARMEL NY 10512

---

2016 01 429 67.36-2-2 208  
VILLAGE OF BREWSTER MAIN ST  
PARK STREET  
50 MAIN ST  
BREWSTER NY 10509

---

2016 01 445 68.5-1-1 905  
MIDTOWN TRACKAGE VENTURES LLC RT 22  
551 FIFTH AVE FL 34TH  
NEW YORK NY 10176

---